

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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EASTERN DISTRICT OF NEW YORK  
JAN 2013  
2013  
BROOKLYN OFFICE  
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RACHEL DENISE SPAIN,

Plaintiff,

**ORDER**

-against-

**07-CV-1776 (NGG) (RER)**

MICHAEL J. ASTRUE,  
Commissioner of Social Security

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

Plaintiff Rachel Spain brought this action against Michael J. Astrue, Commissioner of Social Security (“the Commissioner”), seeking review and reversal of the Commissioner’s denial of her claim for Social Security disability insurance benefits. (See Compl. (Dkt. 1).) Plaintiff moved for judgment on the pleadings (Dkt. 24) and the Commissioner cross-moved for judgment on the pleadings (Dkt. 26). On November 25, 2009, the court issued a Memorandum and Order denying both motions for judgment on the pleadings and remanding to the Social Security Administration for further development of the record. (See Mem. & Order (Dkt. 32).)

On March 1, 2010, Plaintiff moved for attorney’s fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. (Pl. Mot for Fees (Dkt. 34).) The Commissioner opposed her motion. (Comm’r Opp’n (Dkt. 41.) The court referred Plaintiff’s motion to Magistrate Judge Ramon E. Reyes for a Report and Recommendation (“R&R”) pursuant to 28 U.S.C. § 636(b). (Nov. 9, 2012, Order.) On January 31, 2013, Judge Reyes recommended that Plaintiff’s motion be granted and that she be awarded \$16,881.61 in attorney’s fees. (See R&R (Dkt. 46)). Objections to the R&R were due by February 18, 2013. (Id.) None were filed.

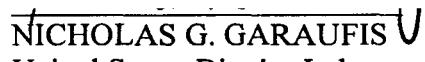
In reviewing a magistrate judge's R&R, the district court "may adopt those portions of the Report to which no objections have been made and which are not facially erroneous." La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); see also Porter v. Potter, 219 F. App'x 112, 113 (2d Cir. 2007) (failure to object waives further judicial review). The court reviews de novo "those portions of the report . . . to which objection is made." 28 U.S.C. § 636(b)(1).

No objections to Judge Reyes's R&R have been filed and the time to do so has passed. The court concludes that the R&R is not facially erroneous and thus adopts it in its entirety. Plaintiff's motion for attorney's fees is GRANTED, and Plaintiff is awarded \$16,881.61 in attorney's fees.

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York  
April 1, 2013

  
NICHOLAS G. GARAUFIS  
United States District Judge